

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA, :

Plaintiff,

Case No. 3:06-cr-061
Also 3:12-cv-302

-vs-

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

CHRISTOPHER HUNTER, :

Defendant.

ORDER VACATING INCORRECT NOTICE TO THE PARTIES

This case is before the Court on Defendant's Motion Pursuant to 18 U.S.C. § 3582(c)(1)(A)(ECF No. 264).

Defendant labeled his Motion as made under 18 U.S.C. § 3582 and thus the Magistrate Judge did not initially understand that it was a referred matter. Hunter later stated that he was seeking relief under the First Step Act (ECF No. 265). Because all motions of that type have been referred to the Magistrate Judge, as he notified the parties on August 16, 2019 (ECF No. 268), the Magistrate Judge assumed responsibility for Hunter's Motion.

Then on October 1, 2019, Hunter filed a Reply to the Motion to Dismiss of the United States asserting "the Court has misconstrued this Motion as a First Step Act motion. It is Hunter's belief that Compassionate Release motions brought properly under § 3582(c)(1)(A)(i) got directly to the sentencing Judge and NOT the Magistrate Judge . . . (ECF No. 277, PageID 4089-90; capitalization in original).

Hunter is correct that § 3582 motions at the Dayton location of court are decided in the

first instance by the sentencing judge without any report from a Magistrate Judge. Since Hunter has now clarified that his Motion is brought under § 3582 and is not under the First Step Act, the incorrect Notice to the Parties (ECF No. 268) is VACATED. The Magistrate Judge will therefore not be involved in Hunter's pending Motion (ECF No. 264) or the Government's Motion to Dismiss (ECF No. 270). The Clerk is directed to remove those motions from the Magistrate Judge's Motions List.

October 3, 2019.

s/ *Michael R. Merz*
United States Magistrate Judge